

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

| | | |
|-------------------------------|---|-------------------------|
| MARION WILSON, JR., | * | CIVIL ACTION NO. |
| | * | 5:10-CV-489-MTT |
| Petitioner, | * | |
| | * | |
| v. | * | HABEAS CORPUS |
| | * | |
| CARL HUMPHREY, Warden, | * | |
| Georgia Diagnostic and | * | |
| Classification Center, | * | |
| | * | |
| Respondent. | * | |

NOTICE OF FILING

COMES NOW Carl Humphrey, Warden, Respondent in the above-styled application for federal habeas corpus relief and pursuant to Rule 5 of the Rules Governing Section 2254 Proceedings, files this his Notice of Filing of the following documents to be utilized by this Court in considering Petitioner's application for federal habeas corpus relief:

Respondent's Exhibit No. 1 - Record on direct appeal in the Georgia Supreme Court (pages 1-984);

Respondent's Exhibit No. 2 - Transcript of a pretrial hearing conducted in the Superior Court of Baldwin County, Georgia on March 21, 1997 (pages 1-33);

Respondent's Exhibit No. 3 - Transcript of an *ex parte* hearing conducted in the Superior Court of Baldwin County, Georgia on April 11, 1997 (pages 1-12);

Respondent's Exhibit No. 4 - Transcript of an *ex parte* hearing conducted in the Superior Court of Baldwin County, Georgia on June 26, 1997 (pages 1-10);

Respondent's Exhibit No. 5 - Transcript of a pretrial motions hearing conducted in the Superior Court of Baldwin County, Georgia on June 26, 1997 (pages 1-32);

Respondent's Exhibit No. 6 - Transcript of an *ex parte* hearing conducted in the Superior Court of Baldwin County, Georgia on September 10, 1997 (pages 1-5);

Respondent's Exhibit No. 7 - Transcript of a pretrial hearing conducted in the Superior Court of Baldwin County, Georgia on September 10, 1997 (pages 1-34);

Respondent's Exhibit No. 8 - Transcript of a pretrial motions hearing conducted in the Superior Court of Baldwin County, Georgia on September 26, 1997 (pages 1-224);

Respondent's Exhibit No. 9 - Transcript of a pretrial hearing conducted in the Superior Court of Baldwin County, Georgia on October 3, 1997 (pages 1-8);

Respondent's Exhibit No. 10 - Transcript of an *ex parte* hearing conducted in the Superior Court of Baldwin County, Georgia on October 3, 1997 (pages 1-4);

Respondent's Exhibit No. 11 - Transcript of an *ex parte* hearing conducted in the Superior Court of Baldwin County, Georgia on October 9, 1997 (pages 1-4);

Respondent's Exhibit No. 12 - Transcript of a pretrial motions hearing conducted in the Superior Court of Baldwin County, Georgia on October 9, 1997 (pages 1-55);

Respondent's Exhibit No. 13 - Transcript of an *ex parte* hearing conducted in the Superior Court of Baldwin County, Georgia on October 17, 1997 (pages 1-5);

Respondent's Exhibit No. 14 - Transcript of a pretrial motions hearing conducted in the Superior Court of Baldwin County, Georgia on October 17, 1997 (pages 1-48);

Respondent's Exhibit No. 15 - Transcript of the trial proceedings conducted in the Superior Court of Baldwin County, Georgia on October 27 - November 7, 1997, Volume I of VIII (pages 1-374);

Respondent's Exhibit No. 16 - Transcript of the trial proceedings conducted in the Superior Court of Baldwin County, Georgia on October 27 - November 7, 1997, Volume II of VIII (pages 375-751);

Respondent's Exhibit No. 17 - Transcript of the trial proceedings conducted in the Superior Court of Baldwin County,

Georgia on October 27 - November 7, 1997, Volume III of VIII
(pages 752-1118);

Respondent's Exhibit No. 18 - Transcript of the trial
proceedings conducted in the Superior Court of Baldwin County,
Georgia on October 27 - November 7, 1997, Volume IV of VIII
(pages 1119-1471);

Respondent's Exhibit No. 19 - Transcript of the trial
proceedings conducted in the Superior Court of Baldwin County,
Georgia on October 27 - November 7, 1997, Volume V of VIII
(pages 1472-1811);

Respondent's Exhibit No. 20 - Transcript of the trial
proceedings conducted in the Superior Court of Baldwin County,
Georgia on October 27 - November 7, 1997, Volume VI of VIII
(pages 1812-2174);

Respondent's Exhibit No. 21 - Transcript of the trial
proceedings conducted in the Superior Court of Baldwin County,
Georgia on October 27 - November 7, 1997, Volume VII of VIII
(pages 2175-2529);

Respondent's Exhibit No. 22 - Transcript of the trial
proceedings conducted in the Superior Court of Baldwin County,
Georgia on October 27 - November 7, 1997, Volume VIII of VIII
(pages 2530-2793);

Respondent's Exhibit No. 23 - Transcript of the motion for new trial hearing conducted in the Superior Court of Baldwin County, Georgia, on December 15, 1998 (pages 1-74);

Respondent's Exhibit No. 24 - Brief of Appellant and Enumeration of Errors on direct appeal to the Georgia Supreme Court, Case No. S99P0651, dated March 15, 1999 (79 pages);

Respondent's Exhibit No. 25 - Brief on Behalf of the Appellee by the Attorney General on direct appeal to the Georgia Supreme Court, Case No. S99P0651, dated April 5, 1999 (146 pages);

Respondent's Exhibit No. 26 - Decision of the Georgia Supreme Court affirming Appellant's conviction and death sentence, dated November 1, 1999 (18 pages);

Respondent's Exhibit No. 27 - Appellant's Motion for Reconsideration and Alternatively, Motion to Withhold Ruling on direct appeal to the Georgia Supreme Court, Case No. S99P0651, dated November 10, 1999 (45 pages);

Respondent's Exhibit No. 28 - Order of Georgia Supreme Court denying Appellant's Motion for Reconsideration, Case No. S99P0651, dated December 20, 1999 (1 page);

Respondent's Exhibit No. 29 - Petition for Writ of Certiorari to the Supreme Court of Georgia in the Supreme Court of the United States, dated May 17, 2000 (43 pages);

Respondent's Exhibit No. 30 - Brief in Opposition on Behalf of the Respondent in the Supreme Court of the United States, dated July 18, 2000 (19 pages);

Respondent's Exhibit No. 31 - Order of the Supreme Court of the United States denying Petition for Writ of Certiorari, dated October 2, 2000 (1 page);

Respondent's Exhibit No. 32 - Petition for Rehearing of Denial of Petition for Writ of Certiorari in the Supreme Court of the United States, dated October 27, 2000 (7 pages);

Respondent's Exhibit No. 33 - Order of the Supreme Court of the United States denying Petition for Rehearing, dated November 27, 2000 (1 page);

Respondent's Exhibit No. 34 - Application for Writ of Habeas Corpus and Petition for Writ of Habeas Corpus filed in the Superior Court of Butts County, Georgia, dated January 19, 2001 (16 pages);

Respondent's Exhibit No. 35 - Return and Answer by Respondent filed in the Superior Court of Butts County, Georgia, dated February 7, 2001 (12 pages);

Respondent's Exhibit No. 36 - Order of assignment filed in the Superior Court of Butts County, Georgia, dated March 13, 2001 (1 page);

Respondent's Exhibit No. 37 - Scheduling order filed in the Superior Court of Butts County, Georgia, dated June 1, 2001 (3 pages);

Respondent's Exhibit No. 38 - Transcript of a motions hearing conducted in the Superior Court of Butts County, Georgia, dated August 21, 2001 (34 pages);

Respondent's Exhibit No. 39 - Petitioner's Motion to Extend Scheduling Order Deadlines Ninety Days filed in the Superior Court of Butts County, Georgia, dated November 13, 2001 (9 pages);

Respondent's Exhibit No. 40 - Order granting Petitioner's Motion to Extend Scheduling Order Deadlines Ninety Days filed in the Superior Court of Butts County, Georgia, dated November 16, 2001 (1 page);

Respondent's Exhibit No. 41 - Stipulated Discovery Schedule Motion filed in the Superior Court of Butts County, Georgia, dated January 22, 2002 (4 pages);

Respondent's Exhibit No. 42 - Order granting Stipulated Discovery Schedule Motion filed in the Superior Court of Butts County, Georgia, dated January 28, 2002 (1 page);

Respondent's Exhibit No. 43 - First Amendment to Petition for Writ of Habeas Corpus filed in the Superior Court of Butts County, Georgia, dated February 22, 2002 (52 pages);

Respondent's Exhibit No. 44 - Return and Answer to Petitioner's First Amendment to Petition for Writ of Habeas Corpus filed in the Superior Court of Butts County, Georgia, dated March 18, 2002 (25 pages);

Respondent's Exhibit No. 45 - Motion to Extend Respondent's Discovery Deadline filed in the Superior Court of Butts County, Georgia, dated May 16, 2002 (4 pages);

Respondent's Exhibit No. 46 - Order granting Motion to Extend Respondent's Discovery Deadline filed in the Superior Court of Butts County, Georgia, dated May 22, 2002 (1 page);

Respondent's Exhibit No. 47 - Amended Motion to Extend Respondent's Discovery Deadline filed in the Superior Court of Butts County, Georgia, dated June 3, 2002 (4 pages);

Respondent's Exhibit No. 48 - Scheduling Order filed in the Superior Court of Butts County, Georgia, dated June 11, 2002 (1 page);

Respondent's Exhibit No. 49 - Order granting Petitioner's request for extension of rebuttal discovery filed in the Superior Court of Butts County, Georgia, dated October 3, 2002 (1 page);

Respondent's Exhibit No. 50 - Order of reassignment filed in the Superior Court of Butts County, Georgia, dated December 22, 2003 (1 page);

Respondent's Exhibit No. 51 - Statement of Position of Respondent filed in the Superior Court of Butts County, Georgia, dated April 12, 2004 (5 pages);

Respondent's Exhibit No. 52 - Petitioner's Statement of Position of Case filed in the Superior Court of Butts County, Georgia, dated April 16, 2004 (4 pages);

Respondent's Exhibit No. 53 - Scheduling Order filed in the Superior Court of Butts County, Georgia, dated December 9, 2004 (2 pages);

Respondent's Exhibit No. 54 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 1 of 19 (pages 1-266);

Respondent's Exhibit No. 55 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 2 of 19 (pages 267-555);

Respondent's Exhibit No. 56 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 3 of 19 (pages 556-880);

Respondent's Exhibit No. 57 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts

County, Georgia, on February 22-23, 2005, Volume 4 of 19 (pages 881-1084);

Respondent's Exhibit No. 58 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 5 of 19 (pages 1085-1418);

Respondent's Exhibit No. 59 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 6 of 19 (pages 1419-1726);

Respondent's Exhibit No. 60 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 7 of 19 (pages 1727-2061);

Respondent's Exhibit No. 61 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 8 of 19 (pages 2062-2425);

Respondent's Exhibit No. 62 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 9 of 19 (pages 2426-2724);

Respondent's Exhibit No. 63 - Transcript of the State

Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 10 of 19 (pages 2725-3007);

Respondent's Exhibit No. 64 - Transcript of the State

Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 11 of 19 (pages 3008-3300);

Respondent's Exhibit No. 65 - Transcript of the State

Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 12 of 19 (pages 3301-3593);

Respondent's Exhibit No. 66 - Transcript of the State

Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 13 of 19 (pages 3594-3883);

Respondent's Exhibit No. 67 - Transcript of the State

Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 14 of 19 (pages 3884-4172);

Respondent's Exhibit No. 68 - Transcript of the State

Habeas Corpus evidentiary hearing in the Superior Court of Butts

County, Georgia, on February 22-23, 2005, Volume 15 of 19 (pages 4173-4455);

Respondent's Exhibit No. 69 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 16 of 19 (pages 4456-4859);

Respondent's Exhibit No. 70 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 17 of 19 (pages 4860-5110);

Respondent's Exhibit No. 71 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 18 of 19 (pages 5111-5339);

Respondent's Exhibit No. 72 - Transcript of the State Habeas Corpus evidentiary hearing in the Superior Court of Butts County, Georgia, on February 22-23, 2005, Volume 19 of 19 (pages 5340-5679);

Respondent's Exhibit No. 73 - Scheduling Order filed in the Superior Court of Butts County, Georgia, dated March 7, 2005 (2 pages);

Respondent's Exhibit No. 74 - Petitioner's Motion to Supplement the Record filed in the Superior Court of Butts County, Georgia, dated April 13, 2005 (23 pages);

Respondent's Exhibit No. 75 - Objection to Petitioner's Motion to Supplement the Record filed in the Superior Court of Butts County, Georgia, dated April 18, 2005 (3 pages);

Respondent's Exhibit No. 76 - Objections to Petitioner's Non-Affidavit Exhibits filed in the Superior Court of Butts County, Georgia, dated April 18, 2005 (7 pages);

Respondent's Exhibit No. 77 - Respondent's Objections to Petitioner's Juror Affidavits filed in the Superior Court of Butts County, Georgia, dated April 18, 2005 (6 pages);

Respondent's Exhibit No. 78 - Objections by Respondent to Petitioner's Affidavits filed in the Superior Court of Butts County, Georgia, dated April 18, 2005 (78 pages);

Respondent's Exhibit No. 79 - Reply to Respondent's Objection to Motion to Supplement the Record filed in the Superior Court of Butts County, Georgia, dated April 27, 2005 (5 pages);

Respondent's Exhibit No. 80 - Consolidated Response to Respondent's Objections to Petitioner's Affidavits and Petitioner's Juror Affidavits filed in the Superior Court of Butts County, Georgia, dated May 5, 2005 (67 pages);

Respondent's Exhibit No. 81 - Order on Motion to Supplement the Record, Respondent's Objections to Petitioner's Juror Affidavits and Objections by Respondent to Petitioner's Affidavits filed in the Superior Court of Butts County, Georgia, dated May 31, 2005 (2 pages);

Respondent's Exhibit No. 82 - Amended Scheduling Order filed in the Superior Court of Butts County, Georgia, dated August 17, 2005 (1 page);

Respondent's Exhibit No. 83 - Petitioner's Post-Hearing Brief filed in the Superior Court of Butts County, Georgia, on October 11, 2005 (157 pages);

Respondent's Exhibit No. 84 - Respondent's Post-Hearing Brief filed in the Superior Court of Butts County, Georgia, dated December 19, 2005 (151 pages);

Respondent's Exhibit No. 85 - Petitioner's Reply Brief in Support of Petition for Writ of Habeas Corpus filed in the Superior Court of Butts County, Georgia, dated February 16, 2006 (114 pages);

Respondent's Exhibit No. 86 - Petitioner's Notice of Supplemental Authority filed in the Superior Court of Butts County, Georgia, dated March 9, 2006 (9 pages);

Respondent's Exhibit No. 87 - Respondent's Proposed Order filed in the Superior Court of Butts County, Georgia, dated March 24, 2006 (40 pages);

Respondent's Exhibit No. 88 - Petitioner's Proposed Final Order filed in the Superior Court of Butts County, Georgia, dated March 24, 2006 (84 pages);

Respondent's Exhibit No. 89 - Petitioner's Notice of Supplemental Authority filed in the Superior Court of Butts County, Georgia, dated June 27, 2006 (5 pages);

Respondent's Exhibit No. 90 - Order denying Petition for Writ of Habeas Corpus in the Superior Court of Butts County, Georgia, dated December 1, 2008 (41 pages);

Respondent's Exhibit No. 91 - Notice of Appeal filed in the Superior Court of Butts County, Georgia, dated December 3, 2008 (3 pages);

Respondent's Exhibit No. 92 - Petitioner's Application for Certificate of Probable Cause to Appeal filed in the Georgia Supreme Court, dated January 30, 2009 (50 pages);

Respondent's Exhibit No. 93 - Respondent's Response in Opposition to Application for Certificate of Probable Cause to Appeal filed in the Georgia Supreme Court, dated March 23, 2009 (35 pages);

Respondent's Exhibit No. 94 - Reply to Response to Application for Certificate of Probable Cause to Appeal filed in the Georgia Supreme Court, dated May 28, 2009 (54 pages);

Respondent's Exhibit No. 95 - Order of Georgia Supreme Court denying Petitioner's Application for Certificate of Probable Cause to Appeal, dated May 3, 2010 (1 page);

Respondent's Exhibit No. 96 - Petition for Writ of Certiorari to the Supreme Court of Georgia in the Supreme Court of the United States, dated September 30, 2010 (48 pages plus appendix);

Respondent's Exhibit No. 97 - Brief in Opposition on Behalf of the Respondent in the Supreme Court of the United States, dated November 9, 2010 (40 pages);

Respondent's Exhibit No. 98 - Reply in Support of Petition for a Writ of Certiorari in the Supreme Court of the United States, dated November 18, 2010 (20 pages plus appendix); and

Respondent's Exhibit No. 99 - Order of the Supreme Court of the United States denying Petition for Writ of Certiorari, dated December 6, 2010 (1 page).

CONCLUSION

Wherefore, Respondent respectfully requests that this Court consider these documents in ruling on Petitioner's petition for federal habeas corpus relief. As noted, if the Court desires additional documents, they will be submitted upon request. Similarly, if counsel for Petitioner identifies any additional documents which have been inadvertently omitted by Respondent, any such document will be submitted upon request.

Respectfully submitted,

SAMUEL S. OLENS 551540
Attorney General

MARY BETH WESTMORELAND 750150
Deputy Attorney General

s/Beth Attaway Burton
BETH ATTAWAY BURTON 027500
Senior Assistant Attorney General

Please serve:

BETH ATTAWAY BURTON
Senior Assistant Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Telephone: (404) 656-3499
Facsimile: (404) 651-6459

CERTIFICATE OF SERVICE

I do hereby certify that I have this day electronically filed this pleading with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorney of record:

Brian Kammer
Georgia Resource Center
303 Elizabeth Street
Atlanta, Georgia 30307

This 26th day of January, 2011.

s/Beth Attaway Burton _____
BETH ATTAWAY BURTON
Senior Assistant Attorney General